
HOUSE BILL No. 1876

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-1.5.

Synopsis: Executive sessions. Provides that official action taken in an executive session is limited to those actions authorized or required by a statute describing a particular executive session.

Effective: July 1, 2003.

Oxley

January 23, 2003, read first time and referred to Committee on Appointments and Claims.

C
o
p
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1876

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-14-1.5-2, AS AMENDED BY P.L.90-2002,
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 2. For the purposes of this chapter:

4 (a) "Public agency" means the following:

5 (1) Any board, commission, department, agency, authority, or
6 other entity, by whatever name designated, exercising a portion of
7 the executive, administrative, or legislative power of the state.

8 (2) Any county, township, school corporation, city, town, political
9 subdivision, or other entity, by whatever name designated,
10 exercising in a limited geographical area the executive,
11 administrative, or legislative power of the state or a delegated
12 local governmental power.

13 (3) Any entity which is subject to either:

14 (A) budget review by either the department of local
15 government finance or the governing body of a county, city,
16 town, township, or school corporation; or

17 (B) audit by the state board of accounts.



C
o
p
y

(4) Any building corporation of a political subdivision of the state of Indiana that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) The Indiana gaming commission established by IC 4-33, including any department, division, or office of the commission.

(7) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(b) "Governing body" means two (2) or more individuals who are:

(1) a public agency that:

(A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and

(B) takes official action on public business;

(2) the board, commission, council, or other body of a public agency which takes official action upon public business; or

(3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by a school corporation to conduct collective bargaining on behalf of that school corporation does not constitute a governing body for purposes of this chapter.

(c) "Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include:

(1) any social or chance gathering not intended to avoid this chapter;

(2) any on-site inspection of any project or program;

(3) traveling to and attending meetings of organizations devoted to betterment of government; or

(4) a caucus.

(d) "Official action" means ~~to~~ the following:

(1) For purposes of a meeting other than an executive session, "official action" means to:

~~(1)~~ (A) receive information;

~~(2)~~ (B) deliberate;

~~(3)~~ (C) make recommendations;

~~(4)~~ (D) establish policy;

~~(5)~~ (E) make decisions; or

~~(6)~~ (F) take final action.

C
o
p
y



(2) For purposes of an executive session, "official action" means that a governing body may only take an action listed under subdivision (1)(A) through (1)(E) that is required or authorized by the particular executive session described under section 6.1(b)(1) through 6.1(b)(12) of this chapter or in another state statute authorizing a governing body to meet in executive session.

(e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.

(f) "Executive session" means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose.

(g) "Final action" means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

(h) "Caucus" means a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action.

(i) "Deliberate" means a discussion which may reasonably be expected to result in official action (defined under subsection (d)(3), (d)(4), (d)(5), or (d)(6)).

(j) "News media" means all newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or public radio or television stations.

(k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

SECTION 2. IC 5-14-1.5-6.1, AS AMENDED BY P.L.37-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:
 - (A) Collective bargaining.
 - (B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
 - (C) The implementation of security systems.



C
o
p
y

- 1 (D) The purchase or lease of real property by the governing
 2 body up to the time a contract or option to purchase or lease is
 3 executed by the parties.
- 4 However, all such strategy discussions must be necessary for
 5 competitive or bargaining reasons and may not include
 6 competitive or bargaining adversaries.
- 7 (3) For discussion of the assessment, design, and implementation
 8 of school safety and security measures, plans, and systems.
- 9 (4) Interviews with industrial or commercial prospects or agents
 10 of industrial or commercial prospects by the department of
 11 commerce, the Indiana development finance authority, the film
 12 commission, the Indiana business modernization and technology
 13 corporation, or economic development commissions.
- 14 (5) To receive information about and interview prospective
 15 employees.
- 16 (6) With respect to any individual over whom the governing body
 17 has jurisdiction:
- 18 (A) to receive information concerning the individual's alleged
 19 misconduct; and
- 20 (B) to discuss, before a determination, the individual's status
 21 as an employee, a student, or an independent contractor who
 22 is a physician.
- 23 (7) For discussion of records classified as confidential by state or
 24 federal statute.
- 25 (8) To discuss before a placement decision an individual student's
 26 abilities, past performance, behavior, and needs.
- 27 (9) To discuss a job performance evaluation of individual
 28 employees. This subdivision does not apply to a discussion of the
 29 salary, compensation, or benefits of employees during a budget
 30 process.
- 31 (10) When considering the appointment of a public official, to do
 32 the following:
- 33 (A) Develop a list of prospective appointees.
- 34 (B) Consider applications.
- 35 (C) Make one (1) initial exclusion of prospective appointees
 36 from further consideration.
- 37 Notwithstanding IC 5-14-3-4(b)(12), a governing body may
 38 release and shall make available for inspection and copying in
 39 accordance with IC 5-14-3-3 identifying information concerning
 40 prospective appointees not initially excluded from further
 41 consideration. An initial exclusion of prospective appointees from
 42 further consideration may not reduce the number of prospective

C
O
P
Y



1 appointees to fewer than three (3) unless there are fewer than
 2 three (3) prospective appointees. Interviews of prospective
 3 appointees must be conducted at a meeting that is open to the
 4 public.

5 (11) To train school board members with an outside consultant
 6 about the performance of the role of the members as public
 7 officials.

8 (12) To prepare or score examinations used in issuing licenses,
 9 certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

10 (c) A final action must be taken at a meeting open to the public. **As**
 11 **set forth in section 2(d)(2) of this chapter, official action taken in**
 12 **an executive session shall be limited by the official actions required**
 13 **or authorized by each executive session described in subsection (b)**
 14 **or in another state statute authorizing a governing body to meet in**
 15 **executive session.**

16 (d) Public notice of executive sessions must state the subject matter
 17 by specific reference to the enumerated instance or instances for which
 18 executive sessions may be held under subsection (b). The requirements
 19 stated in section 4 of this chapter for memoranda and minutes being
 20 made available to the public is modified as to executive sessions in that
 21 the memoranda and minutes must identify the subject matter
 22 considered by specific reference to the enumerated instance or
 23 instances for which public notice was given. The governing body shall
 24 certify by a statement in the memoranda and minutes of the governing
 25 body that no subject matter was discussed in the executive session
 26 other than the subject matter specified in the public notice.

27 (e) A governing body may not conduct an executive session during
 28 a meeting, except as otherwise permitted by applicable statute. A
 29 meeting may not be recessed and reconvened with the intent of
 30 circumventing this subsection.

C
o
p
y

